THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.2187 of 2007

Date: 13.02.2007

Between:

G.Venkateswarlu and another

....Petitioners

and

The Executive Engineer,
Irrigation & CAD, Khammam & others.

....Respondents

O R D E R:

The first petitioner is the Upa Sarpanch of the Gram Panchayat, Tallada Village and Mandal and the second petitioner is said to be an Ayacutdar of Brahmanapalli Cheruvu. Tallada Gram Panchayat was bifurcated in the year 1995 and Gollagudem, which hitherto was a hamlet, was constituted as an independent Gram Panchayat i.e. the fifth respondent herein. The bifurcation of the lands, tanks, etcetera in accordance with the provisions of the Andhra Pradesh Districts (Formation) Act, 1974, is yet to take place. Both the Gram Panchayats are now said to be under the same revenue village, namely Tallada.

Respondents 1 to 3 have undertaken works of restoration of minor irrigation tanks in the area. A tank by name Brahmanapalli Cheruvu was identified for this purpose. It is in the revenue village of Tallada, but it is said to be within the limits of the fifth respondent- Gram Panchayat. Inasmuch as the Gram Panchayat is the unit for identification of works, the said tank was identified with reference to the fifth respondent. The petitioners contend that the fifth respondent-Gram Panchayat has no jurisdiction or competence to undertake works with reference to the tank in question.

Sri Kowturu Vinayakumar, the learned counsel for the petitioners submits that though the Gram Panchayat was bifurcated, the demarcation of the lands and water bodies in accordance with the provisions of the Act is yet to take place. He contends that the mentioning of the name of the fifth respondent in the proceedings issued by respondents 1 to 3 is contrary to law and the facts on the ground situation.

Sri R.Prem Sagar, the learned counsel for the fifth respondent, on the other hand, submits that ever since bifurcation of the Gram Panchayat, the tank in question is being managed and administered by the fifth respondent-Gram Panchayat and there is no justification for the objection raised by the petitioners.

Sri K.Venkata Reddy, the learned counsel for respondents 6 and 7 also advanced the arguments on the same lines. He contends that with reference to Tallada Gram Panchayat, another tank was already identified for the works and acceding to the request of the petitioners would amount to denial of the employment facilities to the villagers of the fifth respondent-Gram Panchayat.

The learned Government Pleader for Irrigation also supplemented the arguments on the same lines.

It is a matter of record that Tallada Gram Panchayat was bifurcated in the year 1995 and the

fifth respondent was carved out of it. So far as the corresponding grouping or amalgamation under the provisions of the Act is concerned, a draft notification inviting objections was issued and published on 13.05.2002. However, the final notification was not issued as yet. Unless this process is completed, no land or water body can be brought under the purview of the fifth respondent-Gram Panchayat. That question, however, does not become significant in the present context. The reason is that the works are taken up under the Rural Employment Guarantee Scheme, in which the Gram Panchayats have absolutely no role to play. Reference to or mentioning of Gram Panchayat is only for the purpose of identifying a unit of work and not for any other purpose. Neither the Gram Panchayat nor the Water Users' Association was assigned any role in this regard. Therefore, it cannot be said that the petitioners have suffered any detriment. The grievance of the petitioners that the villagers of Tallada would be deprived of the benefit of the scheme can be allayed, by directing that the authority concerned shall engage the residents of both the Gram Panchayats for the work in question, duly ensuring proper proportion of the ownership of the ayacut. The question as to whether the tank in question would vest in the fifth respondent-Gram Panchayat or Tallada Gram Panchayat would depend upon the proceedings that are to take place under the Act.

The writ petition is accordingly disposed of. There shall be no order as to costs.

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13.02.2007

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